

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

<p>CONEFF, <i>et al.</i>,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>AT&T CORP., <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>Consolidated Case No. C06-0944 RSM</p> <p>DECLARATION OF KEVIN RANLETT IN SUPPORT OF DEFENDANTS' AMENDED MOTION TO COMPEL ARBITRATION PURSUANT TO THE FEDERAL ARBITRATION ACT AND TO DISMISS ACTION</p>
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I, Kevin Ranlett, hereby declare as follows:

1. I am over 21 years of age and am employed as an attorney by Mayer Brown LLP. The following facts are of my personal knowledge and if called as a witness I could and would testify competently as to their truth.

Alan Mansfield

2. A true and correct copy (as retrieved from PACER by an attorney under my supervision) of the Opinion and Order Rejecting Class Action Settlement, Dkt. No. 76, *Date v. Sony Electronics Inc.*, No. 2:07-cv-15474 (E.D. Mich. Jan. 16, 2009), is attached as **Exhibit 1**. According to that order, Alan Mansfield, who submitted a declaration in this case, participated in *Date* as counsel for the class. *Id.* at 16–17. The order reflects that the proposed settlement would have given \$90 cash awards to 234 (*id.* at 8) of the 175,000 class members (*id.* at 3, 7), and would have awarded the rest only credits redeemable at the Sony online store (*id.* at 6–7). In other words, about 0.13% of class members would have received money under the proposed settlement. The named plaintiff would have received \$5,000, plus up to \$1,600 toward the installation of a new television, and the plaintiffs' attorneys would have received fees of \$300,000, plus litigation costs of \$25,000. *Id.* at 8.

A.B. Data

3. A true and correct copy (as retrieved from PACER by an attorney under my supervision) of the Order of June 16, 2004, Dkt. No. 57, *Bauman v. Superior Financial Corp.*, No. 4:01-CV-00756 (E.D. Ark.), is attached as **Exhibit 2**. That order grants an unopposed motion by the defendants in that case for the return of the entire settlement fund (less the claims administrator's fee and expenses), as "no eligible claims were filed" by members of the class. *Id.* at 1.

4. A true and correct copy (as retrieved from PACER by an attorney under my supervision) of the Plaintiffs' Motion for Distribution of Class Settlement Fund and Incorporated Memorandum of Law, Dkt. No. 150, *In re Andrx Corp., Inc., Taztia XT Securities Litigation*, No. 02-60410-CIV (S.D. Fla. Feb. 23, 2006), together with the accompanying Affidavit of Anya Verkhovskaya-Cohen in Support of Distribution of the Net Settlement Fund (without accompanying exhibits), is attached as **Exhibit 3**. According to the affidavit, two types of class notices were distributed in that case, of 4,008 and 10,107 in number, for a total of 14,115 estimated class members. Verkhovskaya-Cohen Aff. ¶ 10. According to the motion, claims were approved for 820 claimants. Pls.' Mot. for Distrib. 4. Thus, from these documents, the percentage of class members who submitted claims that were approved appears to be about **5.81%**.

5. A true and correct copy (as retrieved from PACER by an attorney under my supervision) of the Affidavit of Anya Verkhovskaya in Support of Distribution of the Net Settlement Funds, Dkt. No. 1025, *In re Lernout & Hauspie Securities Litigation*, No. 1:00-cv-11589 (D. Mass. Mar. 6, 2007), is attached (without accompanying exhibits) as **Exhibit 4**. According to that affidavit, two types of class notices were distributed, of 99,381 and 100,205 in number, for a total of 199,586 estimated class members (*id.* ¶ 6), and 26,431 claim forms were received (*id.* ¶ 14). A true and correct copy (as retrieved from PACER by an attorney under my supervision) of the Affidavit of Anya Verkhovskaya in Support of Plaintiffs' Supplemental

1 Memorandum in Compliance with This Court's September 4, 2007, Order and Amendments to
2 the March 5, 2007, Affidavit of Anya Verkhovskaya in Support of Distribution of the Net
3 Settlement Fund, Dkt. No. 1052, *Lernout & Hauspie* (Oct. 4, 2007), is attached (without
4 accompanying exhibits) as **Exhibit 5**. According to the second affidavit, 14,499 of the submitted
5 claims were rejected as invalid. *See id.* ¶ 18. This left a total of 11,932 valid claims. Thus, from
6 these affidavits, the percentage of class members who submitted claims that were approved
7 appears to be about **5.98%**.

8 6. A true and correct copy (as retrieved from PACER by an attorney under my
9 supervision) of the Affidavit of Anya Verkhovskaya, Dkt. No. 96, Ex. 1, *In re NX Networks*
10 *Securities Litigation*, No. 1:00-cv-11850 (D. Mass. Aug. 30, 2006), is attached as **Exhibit 6**.
11 According to that affidavit, a total of 19,831 Claim Packets were distributed. *Id.* ¶ 5. Of those,
12 932 claims forms were returned and found valid. *Id.* ¶ 22. Thus, from this affidavit, the
13 percentage of class members who submitted claim forms that were approved appears to be about
14 **4.70%**.

15 7. A true and correct copy (as retrieved from PACER by an attorney under my
16 supervision) of the Affidavit of Anya Verkhovskaya-Cohen, Dkt. No. 62, *In re Supervalu, Inc.*
17 *Securities Litigation*, No. 02-cv-1738 (D. Minn. Feb. 21, 2006) is attached as **Exhibit 7**.
18 According to the affidavit, a total of 97,720 Claim Packets were distributed. *Id.* ¶ 5. Of those,
19 10,240 claim forms were received (*id.* ¶ 8) and 7,137 claims were rejected (*id.* ¶ 24), leaving
20 3,103 valid claims. Thus, from this affidavit, the percentage of class members who submitted
21 claim forms that were approved appears to be about **3.18%**.

22 8. A true and correct copy (as retrieved from PACER by an attorney under my
23 supervision) of the Affidavit of Anya Verkhovskaya, Dkt. No. 92, Ex. 2, *Friedman v. Rayovac*
24 *Corp.*, No. 02-cv-0308 (W.D. Wis. July 28, 2008), is attached (without accompanying exhibits)
25 as **Exhibit 8**. According to that affidavit, a total of 11,340 Claim Packets were distributed (*id.*
26 ¶ 5), but only 588 forms were returned and found to be valid (*id.* ¶ 20). Thus, from this affidavit,
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1 the percentage of class members who submitted claim forms that were approved appears to be
2 about **5.19%**.

3 **Steven Fahlgren**

4 9. A true and correct copy (as provided in discovery in this case) of a letter from
5 Kevin Coluccio, counsel to the plaintiffs, to Marjorie Walter, counsel to AT&T Mobility LLC,
6 dated Aug. 18, 2008, is attached as **Exhibit 9**. According to that letter (*id.* at 2), Steven Fahlgren
7 participated as counsel in the class action of *White v. E-Loan, Inc.* No. 05-cv-02080 (N.D. Cal).

8 10. A true and correct copy (as retrieved from PACER by an attorney under my
9 supervision) of the Joint Motion for Entry of Order of Final Approval of Settlement and
10 Judgment, Dkt. No. 135, *White* (May 7, 2007), is attached as **Exhibit 10**. According to the
11 proposed order attached as an exhibit to that motion, the class was estimated as 199,999
12 members. *Id.* Ex. B (Proposed Order of Final Approval of Settlement and Judgment), at ¶ 3.
13 The declaration attached as an exhibit to the motion indicated that only 9,974 class members
14 submitted valid claims forms. *Id.* Ex. A (Decl. of L. Stephens Tilghman), at ¶ 5. Thus, from
15 these documents, the percentage of class members who submitted claims forms that were
16 approved appears to be about **4.99%**. According to the proposed order, each class member
17 received a \$20 check and a free credit score (*id.* Ex. B, ¶ 11), for a total payment to the class of
18 \$199,480. The class counsel received fees and costs in the amount of \$750,000. *Id.*

19 **Garden City Group**

20 11. A true and correct copy (as retrieved from Westlaw's CourtExpress service by an
21 attorney under my supervision) of the Class Plaintiff's Status Report in Support of Final
22 Approval of Class Action Settlement, *DeLoach v. Shaver Auto Center*, No. SCVSS 109026 (Cal.
23 Super. Ct. San Bernardino Cty. Sept. 9, 2005), is attached (without accompanying exhibits) as
24 **Exhibit 11**. According to that status report, the claims administrator mailed notices to one set of
25 30,422 class members and to another set of 341 class members, for a total of 30,763 notices. *Id.*
26 at 1. A true and correct copy (as provided in discovery in this case) of the Garden City Group's
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1 regularly kept business record concerning claims received in *DeLoach*, as of December 23, 2008,
2 is attached as **Sealed Exhibit 1**. According to that record, only 207 claims were received, found
3 valid, and paid. *Id.* at 1. Thus, from these documents, the percentage of class members who
4 submitted claim forms that were approved appears to be about **0.67%**. In total, the class
5 received \$59,500 in coupons and \$30,420 in cash, for a total of \$89,920. *Id.* at 4. A true and
6 correct copy (as provided in discovery in this case) of the Order Preliminarily Approving
7 Settlement & Class Notice Program, *DeLoach* (June 9, 2005) is attached as **Exhibit 12**. The
8 settlement agreement provided \$175,000 in fees and costs for class counsel. *Id.* Ex. A
9 (Settlement Agreement and Release) at 4.

10 12. A true and correct copy (as provided in discovery in this case) of the Declaration
11 of Jennifer M. Keough Regarding Class Notification and Claims Administration, *Gutierrez v.*
12 *Center Chevrolet, Inc.*, No. SCVSS 136374 (Cal. Super. Ct. San Bernardino Cty. Aug. 28, 2007),
13 is attached as **Exhibit 13**. According to that declaration, the claims administrator sent notices
14 and claim forms to 581 members of the class. *Id.* ¶ 4. A true and correct copy (as provided in
15 discovery in this case) of the Garden City Group's regularly kept business record concerning
16 claims received in *Gutierrez*, as of December 19, 2008, is attached as **Sealed Exhibit 2**. The
17 Garden City Group's records indicate that 44 claim forms were received, of which none were
18 valid. *Id.* at 1. A true and correct copy (as provided in discovery in this case) of the Order
19 Preliminarily Approving Settlement and Class Notice Program, *Gutierrez* (July 18, 2007), is
20 attached as **Exhibit 14**. The settlement agreement provided for the class counsel to receive
21 \$30,000. *Id.* Ex. A (Stipulation of Settlement) at 9; *id.* Ex. B (Notice of Proposed Class Action
22 Settlement and Settlement Hearing) at 4.

23 13. A true and correct copy (as provided in discovery in this case) of the Garden City
24 Group's regularly kept business record concerning claims received in *Luna v. Corona Cars, Inc.*,
25 No. RIC 445675 (Cal. Super. Ct. Riverside Cty.), as of December 19, 2008, is attached as **Sealed**
26 **Exhibit 3**. According to that record, the claims administrators mailed claim forms to 8,393 class
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1 members. *Id.* at 1. Of these, 59 claims were received, found valid, and paid. *Id.* Thus, from this
2 document, the percentage of class members who submitted claim forms that were approved
3 appears to be about **0.70%**. Payments to class members totaled \$5,310. *Id.* at 7. A true and
4 correct copy (as provided in discovery in this case) of the Order Preliminarily Approving
5 Settlement and Class Notice Program (Amended), *Luna* (July 19, 2007), is attached as **Exhibit**
6 **15**. According to that order, class counsel received \$30,000. *Id.* Ex. A, at 10.

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8 14. A true and correct copy (as provided in discovery in this case) of the Declaration
9 of Jennifer M. Keough Regarding Class Notice & Claims Administration, *Porter v. Sunrise*
10 *Ford*, No. SCVSS 130980 (Cal. Super. Ct. San Bernardino Cty. Jan. 16, 2007), is attached
11 (without accompanying exhibits) as **Exhibit 16**. According to that declaration, claim forms were
12 mailed to 14,635 class members. *Id.* ¶ 3. A true and correct copy (as provided in discovery in
13 this case) of the Garden City Group's regularly kept business record concerning claims received
14 in *Porter*, as of December 19, 2008, is attached as **Sealed Exhibit 4**. According to that record, a
15 total of 255 claims forms were received, found valid, and paid. *Id.* at 1. Thus, from these
16 documents, the percentage of class members who submitted claim forms that were approved
17 appears to be about **1.74%**. Payments to class members totaled \$12,750. *Id.* at 10. A true copy
18 (as provided in discovery in this case) of the Order Preliminarily Approving Settlement and
19 Class Notice Program, *Porter* (Nov. 21, 2006), is attached as **Exhibit 17**. According to that
20 order, class counsel in *Porter* received a total of \$40,000. *Id.* Ex. A (Stipulation of Settlement) at
21 9.

22 15. A true and correct copy (as provided in discovery in this case) of the Declaration
23 of Amanda L. Horn in Support of Motion for Final Approval of Class Action Settlement,
24 *Trinidad v. Glendale Nissan/Infiniti Inc.*, No. BC323867 (Cal. Super. Ct. L.A. Cty. Nov. 8,
25 2007), is attached as **Exhibit 18**. According to that declaration, claim forms were mailed to
26 6,966 class members. *Id.* ¶ 4. A true and correct copy (as provided in discovery in this case) of
27 the Garden City Group's regularly kept business record concerning claims received in *Trinidad*,
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1 as of December 18, 2008, is attached as **Sealed Exhibit 5**. According to that record, a total of
2 344 claims forms were received, found valid, and paid. *Id.* at 1. Thus, from these documents,
3 the percentage of class members who submitted claim forms that were approved appears to be
4 about **4.94%**.

5 **Gilardi & Co.**

6 16. A true and correct copy (as provided in discovery in this case) of the Declaration
7 of Markham Sherwood re Dissemination of Notice and Report on Claims and Requests for
8 Exclusion Received, *White v. Celco Partnership*, No. RG04-137699 (Cal. Super. Ct. Alameda
9 Cty. Oct. 20, 2008), is attached as **Exhibit 19**. According to that declaration, the claims
10 administrator mailed a notice to 2,771,109 class members (*id.* ¶ 3) and received (as of six days
11 after the postmark deadline) an estimated total of 154,992 filed claims (*id.* ¶ 9). The declaration
12 does not state whether any claims were rejected. Thus, from this declaration, the percentage of
13 class members who submitted claims that were approved appears to be no greater than about
14 **5.59%**.

15 **Miscellaneous**

16 17. A true and correct copy (as retrieved from PACER by an attorney under my
17 supervision) of the Declaration of Daniel Rosenthal re Predicted Participation of Consumer
18 Settlement Class Members in Settlement Consideration, Dkt. No. 441, *Azizian v. Federated*
19 *Department Stores, Inc.*, No. 3:03-cv-03359 (N.D. Cal. Mar. 8, 2005), is attached as **Exhibit 20**.
20 According to that declaration, executed by the owner of class administrator Rosenthal & Co.,
21 LLC (*id.* ¶ 1), “approximately 3% to 7% of the entire consumer settlement class” likely would
22 participate in the settlement of the action (*id.* ¶ 11). A true and correct copy (as retrieved from
23 PACER by an attorney under my supervision) of the Final Judgment Granting Final Approval to
24 the Class Action Settlement With All Defendants And Awarding Attorneys’ Fees and Costs, Dkt.
25 No. 447, *Azizian*, is attached (without accompanying exhibits) as **Exhibit 21**. According to that
26 judgment, class counsel in *Azizian* were awarded \$24 million in attorney’s fees and costs. *See id.*
27

¶ 18.

18. A table of the take rates—*i.e.*, the percentage of the class that participated in the settlements—in the above cases (with the exception of *Azizian*, in which the take rate was merely predicted, and *Date*, in which the proposed settlement was rejected) is attached as **Sealed Exhibit 6**. The median take rate in these cases was **4.70%**. The highest take rate in such cases was **5.98%**, and the lowest non-zero take rate was **0.67%**. In two cases, the take rate was **0%**, as not a single class member obtained the agreed-on recovery. More than two-thirds of these cases had take rates below **5%**.

19. In other words, in two-thirds of these cases, at least **95%** of class members, or **nineteen out of twenty**, appear to have received no monetary or other individual compensation as a result of the class action settlement.

20. If all of the cases listed above were considered as a single large class action, the class would have an estimated 3,375,038 members, of whom only 183,206, or **5.43%**, received any recovery. *See* Sealed Ex. 6. In other words, **94.57%** of all class members in these cases received no individual recovery from the class action settlement.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 11, 2009 in Washington, DC.


Kevin Ranlett